

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

KEITH ELLIS,)	
)	
Plaintiff,)	Case No. 1:08-cv-160-SJM-SPB
)	
v.)	
)	
UNITED STATES OF AMERICA, <i>et al.</i> ,)	
)	
Defendants.)	

MEMORANDUM JUDGMENT ORDER

Plaintiff's complaint in this civil rights action was received by the Clerk of Court on May 27, 2008 and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation, filed on June 17, 2011 [79], recommends that the Defendants' motion for summary judgment [70] be granted in part and denied in part. The Defendants filed partial objections [81] on July 1, 2011, and Plaintiff filed objections [82] on July 28, 2011. After de novo review of the complaint and documents in the case, together with the Report and Recommendation, the following order is entered:

AND NOW, this 1st Day of August, 2011;

IT IS ORDERED that the objections filed, respectively, by the Plaintiff [82] and the Defendants [81] shall be, and hereby are, OVERRULED and the Defendants' motion for summary judgment [70] shall be, and hereby is, GRANTED in part and DENIED in part as follows:

1. Said motion is DENIED with respect to Plaintiff's retaliation claims against Defendants Olowin, Grimm, and Roberts regarding the alleged omission of Plaintiff's name from the call out lists for the 2006 Eid celebration and the Jumu'ah prayer services during the months of January, February and March 2006; and
2. Said motion is GRANTED in all other respects.

In accordance with the foregoing, IT IS ORDERED that JUDGMENT shall be, and hereby is, entered in favor of Defendants Sherman, Nolan, Desio, and Baldensperger as to all claims, based upon their lack of personal involvement in any alleged constitutional violation.

IT IS FURTHER ORDERED that JUDGMENT shall be, and hereby is, entered in favor of all Defendants with respect to Plaintiff's Fifth Amendment equal protection claim as well as with respect to Plaintiff's RFRA claims.

IT IS FURTHER ORDERED that JUDGMENT shall be, and hereby is, entered in favor of Defendants Recktenwald, Gee, and Buck with respect to Plaintiff's retaliation claim regarding the alleged refusal to process his administrative remedies according to policy.

The Report and Recommendation of Magistrate Judge Baxter, filed on June 17, 2011 [79], is adopted as the opinion of this Court.

s/ Sean J. McLaughlin

SEAN J. McLAUGHLIN
United States District Judge

cm: All parties of record

U.S. Magistrate Judge Susan Paradise Baxter